

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

REPORT OF OFFENDER NON-COMPLIANCE

Offender Name: Britta Ann VILLARREAL

Docket Number: 2:02CR00412-01

Offender Address: Modesto, California

Judicial Officer: Honorable Peter A. Nowinski
United States Magistrate Judge
Sacramento, California

Original Sentence Date: 03/19/2003

Original Offense: 18 USC 1711 - Misappropriation of Postal Funds
(CLASS A MISDEMEANOR)

Original Sentence: 60-month term of probation; \$25 special assessment;
\$7,046 restitution.

Special Conditions: Submit to search; Not dispose of or otherwise dissipate any assets without the approval of the Court; Shall provide U. S. Probation Officer requested financial information; Not incur new credit charges or open additional lines of credit without the approval of the probation officer; Participate in a correctional treatment program (inpatient or outpatient) to obtain assistance for drug and alcohol abuse; Participate in a program of testing (i.e., breath, urine, sweat patch, etc.) to determine if she has reverted to the use of drugs or alcohol; Abstain from the use of alcoholic beverages and shall not frequent those place where alcohol is the chief item of sale; Participate in a program of mental health treatment (inpatient or outpatient) which may include the taking of prescribed psychotropic medication; Reside and participate in a residential community corrections center for 120 days; and participate in a co-payment plan for treatment or testing of \$5 per month.

Type of Supervision: Supervised release

Supervision Commenced: 03/19/2003 (probation commencement date)
11/22/2004 (supervised release commencement date)

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Assistant U.S. Attorney: Krysten Hicks **Telephone:** (916) 554-2700

Defense Attorney: Sung Lee **Telephone:** (916) 498-5700

Other Court Action:

05/30/2003: Terms of probation modified. Court vacates special condition requiring the offender's participation in a residential treatment program for a period of up to 120 days.

03/24/2004: Probation Form 12C filed with the Court alleging use of controlled substances and a new law violation. Offender ordered to appear before the Court on May 6, 2004, for violation proceedings.

05/06/2004: Offender admitted to Charge 1 of the Probation Form 12C filed on March 24, 2004. Dispositional hearing scheduled for June 3, 2004.

05/19/2004: Superseding Form 12C Petition filed with the Court alleging continued use of a controlled substance. No-bail warrant issued.

05/21/2004: Arrest warrant executed.

05/25/2004: Duty Magistrate Court orders the offender's temporary release from custody between May 26, 2004, at 9:00 a.m. and May 27, 2004, at 8:00 a.m.

06/03/2004: Probation revoked. Defendant sentenced to 6 months custody of the Bureau of Prisons with a 12-month term of supervised release to follow; \$7,046 restitution (remaining balance \$6,996). All other terms and conditions previously ordered on March 19, 2003, remain in effect.

11/22/2004: Supervised release commences.

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NON-COMPLIANCE SUMMARY

The purpose of this report is to advise the Court of an alleged violation of the terms of supervision. The Probation Officer has developed a plan to dispose of the alleged non-compliance with action less than revocation, and the Court is requested to approve the plan to address the non-compliance.

1. FAILURE TO PAY RESTITUTION PRIOR TO EXPIRATION OF SUPERVISION

Details of alleged non-compliance: The offender, as part of her sentence, was ordered to pay restitution in the amount of \$7,046. She has an unpaid balance of \$6,821 as of October 7, 2005. Ms. Villarreal's term of supervised release is due to terminate on November 21, 2005, and she will not have paid the full amount of restitution prior to termination.

United States Probation Officer Plan/Justification: As previously outlined in the Form 12C Petition filed with the Court on March 24, 2004, and May 19, 2004, Ms. Villarreal's overall adjustment on supervision was originally less than spectacular. However, since her release from custody on November 22, 2004, she has made some notable progress; specifically, since November 29, 2004, the offender has continued to successfully participate in the Redwood Center Drug and Alcohol Program (inpatient and outpatient), continues to successfully participate in the Turning Point Drug and Alcohol Program (i.e., urine collection and monthly counseling), and most noteworthy, as of June 14, 2005, has obtained full-time employment as a truck driver for B & B Trucking, located in Modesto, California. (It is important to note, Ms. Villarreal's employer is aware of her prior criminal history, present supervision, and previous controlled substance use.)

However, while working diligently at getting her life back, free from continued controlled substance use, Ms. Villarreal has been unable to save the necessary funds to satisfy her court-imposed financial obligation. In fact, she has only paid a total \$150.00 during the last eleven months of her supervision of which \$100 was received during the month of

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September 2005. It is Ms. Villarreal's intention to continue submitting monthly restitution payments of no less than \$100 until the outstanding balance is satisfied.

In accordance with 18 USC 3613(b) and (f), liability of the restitution shall terminate 20 years after the offender's release from imprisonment, thereby allowing the United States District Court Clerk's Office to continue the collection of payments until November 22, 2024. If Ms. Villarreal fails to pay restitution, pursuant to 18 USC 3664 (m)(1)(B), the victim named in the restitution order is entitled to an abstract of judgment that, upon registering, recording, docketing, or indexing in accordance with state law, is a lien on the property of the defendant located in the state to the same extent as a judgment in state court.

Since it would appear Ms. Villarreal has paid restitution to the best of her ability during the course of supervision, it is respectfully recommended that her term of supervised release be allowed to terminate on November 22, 2005, without further Court intervention. If the Court concurs with the probation officer's proposed plan, a copy of this Probation Form 12A1 will be provided to the U. S. District Court Clerk's Office and the Financial Litigation Unit of the United States Attorney's Office to be used, if necessary, in the further collection of restitution.

Respectfully submitted,

/s/ Phil R. Hendley, Jr.

Phil R. Hendley, Jr.
United States Probation Officer
Telephone: (209) 574-9429

DATED: October 7, 2005
Modesto, California
PRH/lr

REVIEWED BY: /s/ Deborah A. Spencer
Deborah A. Spencer
Supervising United States Probation Officer

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THE COURT ORDERS:

- (x) The Court Approves Probation Officer's Plan, and Orders No Further Action Be Taken At This Time.
- () Submit a Request for Modifying the Conditions or Term of Supervision.
- () Submit a Request for Warrant or Summons.
- () Other:

October 26, 2005

Date

/s/ Peter A. Nowinski

Signature of Judicial Officer

cc: United States Probation
Krysten Hicks, Certified Law Student
Sung Lee, Assistant Federal Defender
United States Attorney's Office - Financial Litigation Unit
United States District Court - Financial Division

Attachment: Presentence Report (Sacramento only)